

**Federal Register**

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**Part IV**

**Department of  
Transportation**

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**Research and Special Programs  
Administration**

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**49 CFR Part 171**

**Detailed Hazardous Materials Incident  
Reports; Proposed Rule**

**49 CFR Part 172**

**Required Use of Emergency Response  
Guidebooks and Material Safety Data  
Sheets; Proposed Rule**

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Part 171****[Docket No. HM-36B; Notice 84-1]****Detailed Hazardous Materials Incident Reports**

**AGENCY:** Materials Transportation Bureau, Research and Special Programs Administration, DOT.

**ACTION:** Advance Notice of Proposed Rulemaking, and Notice of Public Hearing.

**SUMMARY:** This notice invites comments on changing the reporting criteria for hazardous materials (hazmat) incidents under 49 CFR 171.16. The purpose of this notice is to review existing regulations for clarity and effectiveness. Comments are also invited on the adequacy of certain of the data fields in DOT Form F 5800.1 for purposes of describing the safety performance record of DOT specification packages. Comments received will be considered in the publication of a notice of proposed rulemaking if it is decided to propose specific changes to the existing requirement for carriers to submit detailed hazardous materials incident reports.

**DATES:** A public hearing on the matters raised by this notice will be held on May 1, 1984, in Washington, D.C., at 400 Seventh Street, SW., Room 2230, from 9:30 a.m. to 5:00 p.m. Interested persons are invited to participate in the public hearing. The closing date for submission of written comments is June 5, 1984.

**ADDRESS:** Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 3426, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday. Telephone (202) 426-3148.

**FOR FURTHER INFORMATION CONTACT:**

J. S. Nalevanko, Office of Regulatory Planning and Analysis, U.S. Department of Transportation, Washington, D.C. 20590, Telephone: (202) 472-2698, or Irving R. Abis, Standards Division, Office of Hazardous Materials Regulation, U.S. Department of

Transportation, Washington, D.C. 20590, Telephone: (202) 426-2075.

**SUPPLEMENTARY INFORMATION:****Background**

The Materials Transportation Bureau (MTB) is reviewing the requirements of § 171.16 that each carrier who transports hazardous materials submit to the Department a hazardous materials (hazmat) incident report (DOT Form F 5800.1) for each incident that occurs during the course of transportation (including loading/unloading, or temporary storage). The review was conducted in accordance with Executive Order 12291 as a part of MTB's program to evaluate existing regulations for clarity and to revoke or revise those that are not achieving their intended purpose; or can achieve their intended purpose in a more effective and efficient manner. To accomplish this purpose, a review team consisting of the personnel of several offices of MTB was established.

The review is also consistent with the final rule under Docket HM-36 (35 FR 16836, October 31, 1970) which established the current reporting requirements for hazardous materials incidents. In that docket it was noted that, after a period of time, the Department would evaluate the effectiveness of the incident reporting system and, as appropriate, take further rulemaking action to incorporate additional input on the reporting of hazardous materials incidents.

One of the major objections raised in Docket HM-36 referred to the requirement that a detailed, written report be filed in every case where there "has been an unintentional release of hazardous materials from a package." Many commenters believed that the Department would be flooded with numerous incident reports relating to the release of insignificant amounts of hazardous materials. In response to these comments, the Hazardous Materials Regulations Board (the predecessor of the present Materials Transportation Bureau) stated that it was not in a position to determine whether there are insignificant unintentional releases of hazardous materials that do not warrant the filing of a written report; and that it lacked criteria to establish a line between those releases that should and those that should not be reported.

This Advanced Notice of Proposed Rulemaking is intended to assist MTB in determining what these criteria should be, in light of the more than 130,000 hazmat incident reports submitted to MTB over the past 12 years.

**The Present Reporting Requirements**

The present reporting requirements of § 171.16 are triggered by the following criteria (Reporting criteria (A) and (B) below also require telephonic reports, as required by § 171.15.):

(A) All releases of a hazardous material, which as a direct result of the hazardous material, result in:

A fatality;

An injury requiring hospitalization; Estimated carrier or other property damage exceeding \$50,000.

(B) All incidents, whether or not there is an actual release of a hazardous material, in which:

A fire, breakage, spillage, or suspected contamination occurs involving shipment of radioactive materials;

A fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents; A situation exists of such a nature that in the judgment of the carrier, it should be reported, e.g., a continuing danger to life exists at the scene of the incident.

(C) All unintentional releases of hazardous materials from a package (including a tank) or any quantity of a hazardous waste during transportation, except for the following hazardous materials (except aboard aircraft):

Consumer commodity:

Battery, *electric storage*, wet, filled with acid or alkali;

Paint and paint related materials when shipped in packagings of five gallons or less.

Under these criteria, an average of 7,900 incidents per year have been reported to MTB over the last two years. The vast majority of these reports pertain to criterion (C)—that is, they do not involve a death, an injury, damage exceeding \$50,000, etc., and are primarily associated with incidents involving small packages, such as drums, bottles, cans, boxes, bags, etc. Approximately 79 percent of all incident reports involve small packages.

**Nature and Extent of the Existing Hazmat Incident Reporting Data Base**

At the beginning of 1983, there were approximately 130,000 hazmat incident reports (DOT Form F 5800.1) in the hazmat incident computerized data base. These reports span the 12-year period 1971-1982. During the two-year period 1981-1982, the data base increased by an average of 7,900 reports per year. Each report (see DOT Form F 5800.1 at the end of this document) contains approximately 30 primary data